

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 999**

Introduced by Banking, Commerce and Insurance Committee:  
Quandahl, 31, Chairperson; Foley, 29; Jensen, 20;  
Johnson, 37; Louden, 49; Mines, 18; Redfield, 12;  
Tyson, 19

Read first time January 12, 2004

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banking and finance; to amend sections  
2 8-1009, 8-1512, 8-1513, 45-206, 45-342, 45-346, and  
3 45-921, Reissue Revised Statutes of Nebraska, sections  
4 8-113, 8-208, 8-910, 8-1006, 8-1008, 8-1010, 8-1511,  
5 45-205, 45-351, 45-1017, and 45-1065, Revised Statutes  
6 Supplement, 2002, and sections 8-157.01, 8-1,140, 8-355,  
7 8-602, 8-1001, 8-1003, 8-1012.01, 21-17,115, 45-101.04,  
8 45-1018, 45-1024, and 45-1025, Revised Statutes  
9 Supplement, 2003; to change provisions relating to bank  
10 names, executive officers, electronic terminals, trust  
11 companies, fees, the Nebraska Sale of Checks and Funds  
12 Transmission Act, interest and loans, revolving charge  
13 agreements, the Nebraska Installment Sales Act, the  
14 Delayed Deposit Services Licensing Act, and the Nebraska  
15 Installment Loan Act; to revise powers of state-chartered

LB 999

LB 999

1 banks, building and loan associations, and credit unions;  
2 to provide for credit card banks; to define and redefine  
3 terms; to eliminate obsolete language; to harmonize  
4 provisions; to provide operative dates; to repeal the  
5 original sections; and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1.   Section 8-113, Revised Statutes Supplement,  
2   2002, is amended to read:

3           8-113.   No individual, firm, company, corporation, or  
4   association doing business in the State of Nebraska, unless  
5   organized as a bank under the Nebraska Banking Act or the authority  
6   of the federal government, or as a building and loan, savings and  
7   loan, or savings bank under Chapter 8, article 3, or the authority  
8   of the federal government, shall use the word bank or any  
9   derivative thereof as any part of a title or ~~descriptive~~  
10   description of any business activity. This section does not apply  
11   to (1) banks, building and loan associations, savings and loan  
12   associations, and savings banks chartered by a foreign state  
13   agency, (2) bank holding companies registered pursuant to section  
14   8-913 if the term holding company is also used as any part of the  
15   title or description of any business activity or if the derivative  
16   banc is used, (3) mortgage bankers registered or licensed under the  
17   Mortgage Bankers Registration and Licensing Act if the word  
18   mortgage immediately precedes the word bank or its derivative, (4)  
19   organizations described in section 501(c)(3) of the Internal  
20   Revenue Code and exempt from taxation under section 501(a) of the  
21   code, (5) trade associations which are exempt from taxation under  
22   section 501(c)(6) of the code which represent a segment of the  
23   banking or savings and loan industries, and any affiliate or  
24   subsidiary thereof, except corporations complying with the terms of  
25   the Nebraska Banking Act and (6) such other firms, companies,  
26   corporations, or associations as have been in existence and doing  
27   business for a period of ten years or more prior to October 19,  
28   1963, under a name composed in part of the word bank or some

1 derivative thereof. Any violation of this section shall be a Class  
2 V misdemeanor.

3 Sec. 2. Section 8-157.01, Revised Statutes Supplement,  
4 2003, is amended to read:

5 8-157.01. (1) ~~Upon prior written notice to the director,~~  
6 ~~any~~ Any financial institution which has a main chartered office or  
7 approved branch located in the State of Nebraska may establish and  
8 maintain any number of automatic teller machines at which all  
9 banking transactions, defined as receiving deposits of every kind  
10 and nature and crediting such to customer accounts, cashing checks  
11 and cash withdrawals, transfer of funds from checking accounts to  
12 savings accounts, transfer of funds from savings accounts to  
13 checking accounts, transfer of funds from either checking accounts  
14 and savings accounts to accounts of other customers, payment  
15 transfers from customer accounts into accounts maintained by other  
16 customers of the financial institution or the financial  
17 institution, including preauthorized draft authority, preauthorized  
18 loans, and credit transactions, receiving payments payable at the  
19 financial institution or otherwise, and account balance inquiry,  
20 may be conducted. Any other transaction incidental to the business  
21 of the financial institution or which will provide a benefit to the  
22 financial institution's customers or the general public may be  
23 conducted at an automatic teller machine upon thirty days' prior  
24 written notice to the director if the director does not object to  
25 the proposed other transaction within the thirty-day notice period.  
26 Neither such automatic teller machines nor the transactions  
27 conducted thereat shall be construed as the establishment of a  
28 branch or as branch banking. Such automatic teller machines shall

1 be made available on a nondiscriminating basis for use by customers  
2 of any financial institution which has a main chartered office or  
3 approved branch located in the State of Nebraska which becomes a  
4 user financial institution. It shall not be deemed discrimination  
5 if an automatic teller machine does not offer the same transaction  
6 services as other automatic teller machines or if there are no fees  
7 charged between affiliate financial institutions for the use of  
8 automatic teller machines.

9           (2) Any financial institution may become a user financial  
10 institution by agreeing to pay the establishing financial  
11 institution its automatic teller machine usage fee. Such agreement  
12 shall be implied by the use of such automatic teller machines.  
13 Nothing in this subsection shall prohibit a user financial  
14 institution from agreeing to responsibilities and benefits which  
15 might be contained in a standardized agreement. The establishing  
16 financial institution or its designated data processing center  
17 shall be responsible for transmitting transactions originating from  
18 its automatic teller machine to a switch, but nothing contained in  
19 this section shall be construed to require routing of all  
20 transactions to a switch. All automatic teller machines must be  
21 made available on a nondiscriminating basis, for use by customers  
22 of any financial institution which has a main chartered office or  
23 approved branch located in the State of Nebraska which becomes a  
24 user financial institution, through methods, fees, and processes  
25 that the establishing financial institution has provided for  
26 switching transactions. The director, upon notice and after a  
27 hearing, may terminate or suspend the use of any automatic teller  
28 machine if he or she determines that it is not available on a

1 nondiscriminating basis for use by customers of any financial  
2 institution which has a main chartered office or approved branch  
3 located in the State of Nebraska which becomes a user financial  
4 institution or that transactions originated by customers of user  
5 financial institutions are not being routed to a switch or other  
6 data processing centers. Nothing in this section may be construed  
7 to prohibit nonbank employees from assisting in transactions  
8 originated at the automatic teller machines, and such assistance  
9 shall not be deemed to be engaging in the business of banking.  
10 Such nonbank employees may be trained in the use of the automatic  
11 teller machines by financial institution employees.

12 (3) An establishing financial institution shall not be  
13 deemed to make an automatic teller machine available on a  
14 nondiscriminating basis if, through personnel services offered,  
15 advertising on or off the automatic teller machine's premises, or  
16 otherwise, it discriminates in the use of the automatic teller  
17 machine against any user financial institution which has a main  
18 chartered office or approved branch located in the State of  
19 Nebraska.

20 (4) (a) ~~On and after August 1, 2000, any~~ Any consumer  
21 initiating an electronic funds transfer at an automatic teller  
22 machine for which an automatic teller machine surcharge will be  
23 imposed shall receive notice in accordance with the provisions of  
24 15 U.S.C. 1693b(d) (3) (A) and (B), as such section existed on ~~July~~  
25 ~~20, 2002~~ January 1, 2004. Such notice shall (i) be posted in a  
26 prominent and conspicuous location on or at the automatic teller  
27 machine at which the electronic funds transfer is initiated by the  
28 consumer and (ii) appear on the screen of the automatic teller

1 machine or appear on a paper notice issued from such machine after  
2 the transaction is initiated and before the consumer is irrevocably  
3 committed to completing the transaction.

4 (b) Subdivision (a)(ii) of this subsection shall not  
5 apply until January 1, 2005, to any automatic teller machine that  
6 lacks the technical capability to disclose the notice on the screen  
7 or to issue a paper notice after the transaction is initiated and  
8 before the consumer is irrevocably committed to completing the  
9 transaction.

10 (5) A point-of-sale terminal may be established at any  
11 point within this state. A financial institution may contract with  
12 a seller of goods and services or any other third party for the  
13 operation of point-of-sale terminals. A point-of-sale terminal  
14 shall be made available on a nondiscriminating basis for use by  
15 customers of any financial institution which has a main chartered  
16 office or approved branch located in the State of Nebraska which  
17 becomes a user financial institution. Nothing in this subsection  
18 shall prohibit payment of fees to a financial institution which  
19 issues an access device used to initiate electronic funds transfer  
20 transactions at a point-of-sale terminal.

21 (6) A seller of goods and services or any other third  
22 party on whose premises one or more point-of-sale terminals are  
23 established shall not be, solely by virtue of such establishment, a  
24 financial institution and shall not be subject to the laws  
25 governing, or other requirements imposed on, financial  
26 institutions, except for the requirement that it faithfully perform  
27 its obligations in connection with any transaction originated at  
28 any point-of-sale terminal on its premises. The acquiring

1 financial institution shall be responsible for compliance with all  
2 applicable standards, rules, and regulations governing  
3 point-of-sale transactions.

4 (7) Any financial institution, upon a request of the  
5 director, shall file with the director a current listing of all  
6 point-of-sale terminals established by the financial institution  
7 within this state. For purposes of this subsection, point-of-sale  
8 terminal shall include a group of one or more of such terminals  
9 established at a single business location. Such listing shall  
10 contain any reasonable descriptive information pertaining to the  
11 point-of-sale terminal as required by the director. Neither the  
12 establishment of such point-of-sale terminal nor any transactions  
13 conducted thereat shall be construed as the establishment of a  
14 branch or as branch banking. Following establishment of a  
15 point-of-sale terminal, the director, upon notice and after a  
16 hearing, may terminate or suspend the use of such point-of-sale  
17 terminal if he or she determines that it is not made available on a  
18 nondiscriminating basis for use by customers of any financial  
19 institution which has a main chartered office or approved branch  
20 located in the State of Nebraska which becomes a user financial  
21 institution, that the necessary information is not on file with the  
22 director, or that transactions originated by customers of user  
23 financial institutions are not being routed to a switch or other  
24 data processing center. Nothing in this section shall be construed  
25 to prohibit nonbank employees from assisting in transactions  
26 originated at the point-of-sale terminals, and such assistance  
27 shall not be deemed to be engaging in the business of banking.

28 (8) Transactions at point-of-sale terminals may include:



- 1           (a) Check guarantees;
- 2           (b) Account balance inquiries;
- 3           (c) Transfers of funds from a customer's account for
- 4 payment to a seller's account for goods and services on whose
- 5 premises the point-of-sale terminal is located in payment for the
- 6 goods and services;
- 7           (d) Cash withdrawals by a customer from the customer's
- 8 account or accounts;
- 9           (e) Transfers between accounts of the same customers at
- 10 the same financial institution; and
- 11           (f) Such other transactions as the director, upon
- 12 application, notice, and hearing, may approve.

13           (9)(a) Automatic teller machines may be established and

14 maintained by a financial institution which has a main chartered

15 office or approved branch located in the State of Nebraska, by a

16 group of two or more of such financial institutions, or by a

17 combination of such financial institution or financial institutions

18 and a third party.

19           (b) Point-of-sale terminals may be established and

20 maintained by a financial institution which has a main chartered

21 office or approved branch located in the State of Nebraska, by a

22 group of two or more of such financial institutions, or by a

23 combination of such financial institutions and a third party. No

24 one, through personnel services offered, advertising on or off the

25 point-of-sale terminal premises, or otherwise, may discriminate in

26 the use of the point-of-sale terminal against any other user

27 financial institution.

28           (10) All financial institutions shall be given an equal

1 opportunity for the use of and access to a switch, and no  
2 discrimination shall exist or preferential treatment be given in  
3 either the operation of such switch or the charges for use thereof.  
4 The operation of such switch shall be with the approval of the  
5 director. Approval of such switch shall be given by the director  
6 when he or she determines that its design and operation are such as  
7 to provide access thereto and use thereof by any financial  
8 institution without discrimination as to access or cost of its use.  
9 Any switch established in Nebraska and approved by the director  
10 prior to January 1, 1993, shall be deemed to be approved for  
11 purposes of this section.

12 (11) Use of an automatic teller machine or a  
13 point-of-sale terminal through access to a switch and use of any  
14 switch shall be made available on a nondiscriminating basis to any  
15 financial institution. A financial institution shall only be  
16 permitted use of the switch if the financial institution conforms  
17 to reasonable technical operating standards which have been  
18 established by the switch.

19 (12) To assure maximum safety and security against  
20 malfunction, fraud, theft, and other accidents or abuses and to  
21 assure that all such access devices will have the capability of  
22 activating all automatic teller machines and point-of-sale  
23 terminals established in this state, no automatic teller machine or  
24 point-of-sale terminal shall accept an access device which does not  
25 conform to such specifications as are generally accepted. No  
26 automatic teller machine or point-of-sale terminal shall be  
27 established or operated which does not accept an access device  
28 which conforms with such specifications.

1           An automatic teller machine shall bear a logo type or  
2 other identification symbol designed to advise customers that the  
3 automatic teller machine may be activated by any access device  
4 which complies with the generally accepted specifications. A  
5 point-of-sale terminal shall either bear or the premises on which  
6 the point-of-sale terminal is established shall contain a visible  
7 logo type or other identification symbol designed to advise  
8 customers that the point-of-sale terminal may be activated by any  
9 access device which complies with the generally accepted  
10 specifications. An automatic teller machine or point-of-sale  
11 terminal may also bear, at the option of the establishing or  
12 acquiring financial institution, any of the following:

13           (a) The names of all individual financial institutions  
14 using such automatic teller machines or point-of-sale terminals in  
15 alphabetical order, except that the establishing or acquiring  
16 financial institution may be listed first, and in a uniform  
17 typeface, size, and color; or

18           (b) The logo type or symbol of any association,  
19 corporation, or other entity or organization formed by one or more  
20 of the financial institutions using such automatic teller machines  
21 or point-of-sale terminals.

22           (13) If the director, upon notice and hearing, determines  
23 at any time that the design or operation of a switch or provision  
24 for use thereof does discriminate against any financial institution  
25 in providing access thereto and use thereof either through access  
26 thereto or by virtue of the cost of its use, he or she may revoke  
27 his or her approval of such switch operation and immediately order  
28 the discontinuance of the operation of such switch.

1           (14) If it is determined by the director, after notice  
2 and hearing, that discrimination against any financial institution  
3 has taken place, that one financial institution has been preferred  
4 over another, or that any financial institution or person has not  
5 complied with any of the provisions of this section, he or she  
6 shall immediately issue a cease and desist order or an order for  
7 compliance within ten days after the date of the order, and upon  
8 noncompliance with such order, the offending financial institution  
9 shall be subject to sections ~~8-1,135 to 8-1,138~~ 8-1,134 to 8-1,139  
10 and to having the privileges granted in this section revoked.

11           (15) For purposes of this section:

12           (a) Access means the ability to utilize an automatic  
13 teller machine or a point-of-sale terminal to conduct permitted  
14 banking transactions or purchase goods and services electronically;

15           (b) Access device means a code, a transaction card, or  
16 any other means of access to a customer's account, or any  
17 combination thereof, that may be used by a customer for the purpose  
18 of initiating an electronic funds transfer at an automatic teller  
19 machine or a point-of-sale terminal;

20           (c) Account means a checking account, a savings account,  
21 a share account, or any other customer asset account held by a  
22 financial institution. Such an account may also include a line of  
23 credit which a financial institution has agreed to extend to its  
24 customer;

25           (d) Acquiring financial institution means any financial  
26 institution establishing a point-of-sale terminal;

27           (e) Affiliate financial institution means any financial  
28 institution which is a subsidiary of the same bank holding company;

1           (f) Electronic funds transfer means any transfer of  
2 funds, other than a transaction originated by check, draft, or  
3 similar paper instrument, that is initiated through a point-of-sale  
4 terminal, an automatic teller machine, or a personal terminal for  
5 the purpose of ordering, instructing, or authorizing a financial  
6 institution to debit or credit an account;

7           (g) Establishing financial institution means any  
8 financial institution establishing an automatic teller machine  
9 which has a main chartered office or approved branch located in the  
10 State of Nebraska;

11           (h) Financial institution means a state-chartered or  
12 federally chartered bank, savings bank, building and loan  
13 association, savings and loan association, or credit union, or a  
14 subsidiary of any such entity;

15           (i) Personal identification number means a combination of  
16 numerals or letters selected for a customer of a financial  
17 institution, a merchant, or any other third party which is used in  
18 conjunction with an access device to initiate an electronic funds  
19 transfer transaction;

20           (j) Personal terminal means a personal computer and  
21 telephone, wherever located, operated by a customer of a financial  
22 institution for the purpose of initiating a transaction affecting  
23 an account of the customer; and

24           (k) User financial institution means any financial  
25 institution which desires to avail itself of and provide its  
26 customers with automatic teller machine or point-of-sale terminal  
27 services.

28           (16) Nothing in this section prohibits ordinary

1 clearinghouse transactions between financial institutions.

2           (17) Nothing in this section requires any federally  
3 chartered establishing financial institution to obtain the approval  
4 of the director for the establishment of any automatic teller  
5 machine.

6           (18) Nothing in this section shall prevent any financial  
7 institution which has a main chartered office or an approved branch  
8 located in the State of Nebraska from participating in a national  
9 automatic teller machine program to allow its customers to use  
10 automatic teller machines located outside of the State of Nebraska  
11 which are established by out-of-state financial institutions or to  
12 allow customers of out-of-state financial institutions to use its  
13 automatic teller machines located in the State of Nebraska. Such  
14 participation and any automatic teller machine usage fees charged  
15 or received pursuant to the national automatic teller machine  
16 program shall not be considered for purposes of determining if an  
17 automatic teller machine located in the State of Nebraska has been  
18 made available on a nondiscriminating basis for use by customers of  
19 any financial institution which has a main chartered office or  
20 approved branch located in the State of Nebraska which becomes a  
21 user financial institution.

22           Sec. 3. Section 8-1,140, Revised Statutes Supplement,  
23 2003, is amended to read:

24           8-1,140. Notwithstanding any of the other provisions of  
25 the Nebraska Banking Act or any other Nebraska statute, any bank  
26 incorporated under the laws of this state and organized under the  
27 provisions of the act, or under the laws of this state as they  
28 existed prior to May 9, 1933, shall directly, or indirectly through

1 a subsidiary or subsidiaries, have all the rights, powers,  
2 privileges, benefits, and immunities which may be exercised as of  
3 ~~March 4, 2003~~ the operative date of this section, by a federally  
4 chartered bank doing business in Nebraska, including the exercise  
5 of all powers and activities that are permitted for a financial  
6 subsidiary of a federally chartered bank. Such rights, powers,  
7 privileges, benefits, and immunities shall not relieve such bank  
8 from payment of state taxes assessed under any applicable laws of  
9 this state.

10 Sec. 4. Section 8-208, Revised Statutes Supplement,  
11 2002, is amended to read:

12 8-208. All conveyance of or other instruments affecting  
13 real estate owned or held in trust by a trust company shall be  
14 authorized, prior to or within ninety days after the conveyance or  
15 execution of an instrument affecting real estate owned or held in  
16 trust, by a ~~resolution~~ of the board of directors or a committee  
17 appointed by the board of directors. Such authorization shall be  
18 specifically documented in the minutes of the board of directors.  
19 All such conveyances or other instruments shall be ~~and~~ signed in  
20 the name of the trust company by its president or vice president.

21 Sec. 5. Section 8-355, Revised Statutes Supplement,  
22 2003, is amended to read:

23 8-355. Notwithstanding any of the provisions of Chapter  
24 8, article 3, or any other Nebraska statute, except as provided in  
25 section 8-345.02, any association incorporated under the laws of  
26 the State of Nebraska and organized under the provisions of such  
27 article shall have all the rights, powers, privileges, benefits,  
28 and immunities which may be exercised as of ~~March 4, 2003~~ the

1 operative date of this section, by a federal savings and loan  
2 association doing business in Nebraska. Such rights, powers,  
3 privileges, benefits, and immunities shall not relieve such  
4 association from payment of state taxes assessed under any  
5 applicable laws of this state.

6 Sec. 6. Section 8-602, Revised Statutes Supplement,  
7 2003, is amended to read:

8 8-602. The Director of Banking and Finance shall charge  
9 and collect fees for certain services rendered by the Department of  
10 Banking and Finance according to the following schedule:

11 (1) For filing and examining articles of incorporation,  
12 articles of association, and bylaws, except credit unions, one  
13 hundred dollars, and for credit unions, fifty dollars;

14 (2) For filing and examining an amendment to articles of  
15 incorporation, articles of association, and bylaws, except credit  
16 unions, fifty dollars, and for credit unions, fifteen dollars;

17 (3) For issuing to banks, credit card banks, trust  
18 companies, and building and loan associations a charter, authority,  
19 or license to do business in this state, a sum which shall be  
20 determined on the basis of one dollar and fifty cents for each one  
21 thousand dollars of authorized capital, except that the minimum fee  
22 in each case shall be two hundred twenty-five dollars;

23 (4) For issuing an executive officer's or loan officer's  
24 license, fifty dollars at the time of the initial license and  
25 fifteen dollars on or before January 15 each year thereafter,  
26 except credit unions for which the fee shall be twenty-five dollars  
27 at the time of the initial license and fifteen dollars on or before  
28 January 15 each year thereafter;



- 1           (5) For affixing certificate and seal, five dollars;
- 2           (6) For making a photostatic copy of instruments,  
3 documents, or any other departmental records and for providing a  
4 computer-generated document, one dollar and fifty cents per page;
- 5           (7) For making substitution of securities held by it and  
6 issuing a receipt, fifteen dollars;
- 7           (8) For issuing a certificate of approval to a credit  
8 union, ten dollars;
- 9           (9) For investigating the applications required by  
10 sections 8-120 and 8-331 and the documents required by section  
11 8-201, the cost of such examination, investigation, and inspection,  
12 including all legal expenses and the cost of any hearing  
13 transcript, with a minimum fee under (a) section 8-120 and section  
14 19 of this act of two thousand five hundred dollars, (b) section  
15 8-331 of two thousand dollars, and (c) section 8-201 of one  
16 thousand dollars. The department may require the applicant to  
17 procure and give a surety bond in such principal amount as the  
18 department may determine and conditioned for the payment of the  
19 fees provided in this subdivision;
- 20           (10) For registering a statement of intention to engage  
21 in the business of making personal loans pursuant to section 8-816,  
22 fifty dollars;
- 23           (11) For the handling of pledged securities as provided  
24 in section 8-210, at the time of the initial deposit of such  
25 securities, one dollar and fifty cents for each thousand dollars of  
26 securities deposited and a like amount on or before January 15 each  
27 year thereafter. The fees shall be paid by the company, national  
28 bank, federal savings association, federally chartered trust

1 company, out-of-state trust company authorized under the Interstate  
2 Trust Company Office Act, or state-chartered bank pledging the  
3 securities;

4 (12) For investigating an application to move its  
5 location within the city or village limits of its original license  
6 or charter for banks, trust companies, and building and loan  
7 associations, two hundred fifty dollars;

8 (13) For investigating an application for approval to  
9 establish or acquire a branch or to establish a mobile branch  
10 pursuant to section 8-157, two hundred fifty dollars;

11 ~~(14) For filing a notice to establish an automatic teller~~  
12 ~~machine, fifteen dollars;~~

13 ~~(15)~~ For investigating a notice of acquisition of control  
14 under subsection (1) of section 8-1502, five hundred dollars;

15 ~~(16)~~ (15) For investigating an application for a  
16 cross-industry merger under section 8-1510, five hundred dollars;

17 ~~(17)~~ (16) For investigating an application for a merger  
18 of two state banks or a merger of a state bank and a national bank  
19 in which the state bank is the surviving entity, five hundred  
20 dollars;

21 ~~(18)~~ (17) For investigating an application or a notice to  
22 establish a branch trust office, five hundred dollars;

23 ~~(19)~~ (18) For investigating an application or a notice to  
24 establish a representative trust office, five hundred dollars; ~~and~~

25 ~~(20)~~ (19) For investigating an application to establish a  
26 credit union branch under section 21-1725.01, two hundred fifty  
27 dollars; and

28 (20) For investigating an applicant under section 8-1513,

1 five thousand dollars.

2           All fees and money collected by or paid to the department  
3 under any of the provisions of Chapter 8, 21, or 45 or any other  
4 law shall, if and when specifically appropriated by the Legislature  
5 during any biennium, constitute the Financial Institution  
6 Assessment Cash Fund for the use of the department during any  
7 biennium in administering the provisions of such chapters and any  
8 duties imposed upon the department by any other law, and all of  
9 such money when appropriated shall be appropriated for the purposes  
10 expressed in this section.

11           Sec. 7. Section 8-910, Revised Statutes Supplement,  
12 2002, is amended to read:

13           8-910. (1) It shall be unlawful, except as provided in  
14 this section, for:

15           (a) Any action to be taken that causes any company to  
16 become a bank holding company;

17           (b) Any action to be taken that causes a bank to become a  
18 subsidiary of a bank holding company;

19           (c) Any bank holding company to acquire direct or  
20 indirect ownership or control of any voting shares of any bank if,  
21 after such acquisition, such company will directly or indirectly  
22 own or control more than twenty-five percent of the voting shares  
23 of such bank;

24           (d) Any bank holding company or subsidiary thereof, other  
25 than a bank, to acquire all or substantially all of the assets of a  
26 bank; or

27           (e) Any bank holding company to merge or consolidate with  
28 any other bank holding company.

1           (2) The prohibition set forth in subsection (1) of this  
2 section shall not apply if:

3           (a) (i) The bank holding company is registered with the  
4 department as of September 29, 1995, as a bank holding company for  
5 any bank or banks; or (ii) the bank holding company registers with  
6 the department in accordance with the provisions of section 8-913  
7 as a bank holding company;

8           (b) The bank holding company does not have a name  
9 deceptively similar to an existing unaffiliated bank or bank  
10 holding company located in Nebraska;

11           (c) Upon any action referred to in subsection (1) of this  
12 section and subject to subsection (3) of this section, the bank or  
13 banks so owned or controlled would have deposits in Nebraska in an  
14 amount no greater than twenty-two percent of the total deposits of  
15 all banks in Nebraska plus the total deposits, savings accounts,  
16 passbook accounts, and shares in savings and loan associations and  
17 building and loan associations in Nebraska as determined by the  
18 director on the basis of the most recent midyear reports, except as  
19 provided in subsections (4) and (5) of this section;

20           (d) The bank holding company is adequately capitalized  
21 and adequately managed;

22           (e) The bank holding company complies with sections  
23 8-1501 to 8-1505 if the bank or banks to be acquired are chartered  
24 in this state under the Nebraska Banking Act; and

25           (f) The bank holding company, if an out-of-state bank  
26 holding company, complies with the limitations of section 8-911.

27           (3) If any person, association, partnership, limited  
28 liability company, or corporation owns or controls twenty-five

1 percent or more of the voting stock of any bank holding company  
2 acquiring a bank and any such person, association, partnership,  
3 limited liability company, or corporation owns or controls  
4 twenty-five percent or more of the voting stock of any other bank  
5 or bank holding company in Nebraska, then the total deposits of  
6 such other bank or banks and of all banks in Nebraska owned or  
7 controlled by such bank holding company shall be included in the  
8 computation of the total deposits of a bank holding company  
9 acquiring a bank.

10 (4) A bank or bank holding company which acquires and  
11 holds all or substantially all of the voting stock of one ~~newly~~  
12 ~~established~~ credit card bank under sections 8-1512 and 8-1513 shall  
13 not have such acquisition count against the limitations set forth  
14 in subdivision (2)(c) of this section.

15 (5) A bank holding company which acquired an institution  
16 or which formed a bank which acquired an institution under sections  
17 8-1506 to 8-1510 or which acquired any assets and liabilities from  
18 the Resolution Trust Corporation or the Federal Deposit Insurance  
19 Corporation prior to January 1, 1994, shall not have such  
20 acquisition or formation count against the limitations set forth in  
21 subdivision (2)(c) of this section.

22 Sec. 8. Section 8-1001, Revised Statutes Supplement,  
23 2003, is amended to read:

24 8-1001. For purposes of the Nebraska Sale of Checks and  
25 Funds Transmission Act, unless the context otherwise requires:

26 (1) Person means any individual, partnership, limited  
27 liability company, association, joint-stock association, trust, or  
28 corporation, but does not include the United States Government or

1 the government of the State of Nebraska;

2 (2) Licensee means any person duly licensed pursuant to  
3 the act;

4 (3) Check means any check, draft, money order, personal  
5 money order, or other instrument, order, or instruction for the  
6 transmission or payment of money;

7 (4) Personal money order means any instrument for the  
8 transmission or payment of money in relation to which the purchaser  
9 or remitter appoints or purports to appoint the seller thereof as  
10 his or her agent for the receipt, transmission, or handling of  
11 money, whether such instrument is signed by the seller, by the  
12 purchaser or remitter, or by some other person;

13 (5) Director means the Director of Banking and Finance;  
14 ~~and~~

15 (6) Financial institution has the same meaning as in  
16 section 8-101; and

17 (7) Transmission means a transfer by oral, written, or  
18 electronic means or instruction.

19 Sec. 9. Section 8-1003, Revised Statutes Supplement,  
20 2003, is amended to read:

21 8-1003. (1) Nothing in the Nebraska Sale of Checks and  
22 Funds Transmission Act shall apply to the sale or issuance of  
23 checks or the transmission of money by:

24 (a) Departments or agencies of the United States or of  
25 any state or municipal government; or

26 (b) Financial institutions.

27 (2) The act shall not apply to the receipt of money by an  
28 incorporated telegraph company as described in section 86-601 at

1 any office of such company for immediate transmission by telegraph  
2 if the business of such company is not limited solely to the  
3 transmission of money.

4 Sec. 10. Section 8-1006, Revised Statutes Supplement,  
5 2002, is amended to read:

6 8-1006. Each application for a license shall be  
7 accompanied by:

8 (1) An investigation application fee of one ~~hundred~~  
9 thousand dollars which shall not be subject to refund but which, if  
10 the license be granted, shall constitute the license fee for the  
11 first license year or part thereof;

12 (2) Financial statements, reasonably satisfactory to the  
13 director, showing that the applicant's net worth exceeds fifty  
14 thousand dollars; and

15 (3) A surety bond issued by a bonding company or  
16 insurance company authorized to do business in this state, in the  
17 principal sum of ~~fifty~~ one hundred thousand dollars and in an  
18 additional principal sum of five thousand dollars for each  
19 location, in excess of one, at which the applicant proposes to sell  
20 checks in this state, but in no event shall the bond be required to  
21 be in excess of ~~one~~ two hundred fifty thousand dollars. ~~If the~~  
22 ~~bond accompanying the application be in a principal sum of less~~  
23 ~~than one hundred fifty thousand dollars, the application shall also~~  
24 ~~be accompanied by a list of the locations, including agencies, in~~  
25 ~~this state where the business is to be conducted.~~ The bond shall  
26 be in form satisfactory to the director and shall run to the state  
27 for the benefit of any claimants against the applicant or its  
28 agents to secure the faithful performance of the obligations of the

1 applicant and its agents with respect to the receipt, handling,  
2 transmission, and payment of money in connection with the sale of  
3 checks. The aggregate liability of the surety in no event shall  
4 exceed the principal sum of the bond. The bond shall remain in  
5 force and effect until the surety is released from liability by the  
6 director or until the bond is canceled by the surety, which  
7 cancellation may be had only upon thirty days' written notice to  
8 the director. Such cancellation shall not affect any liability  
9 incurred or accrued prior to the termination of the thirty-day  
10 period. In lieu of such corporate surety bond or bonds, or of any  
11 portion of the principal thereof as required by this subdivision,  
12 the applicant may deposit, with the director or with such state  
13 banks or trust companies or national banks in this state as such  
14 applicant may designate and the director may approve,  
15 interest-bearing stocks and bonds, notes, debentures or other  
16 obligations of the United States or any agency or instrumentality  
17 thereof, or guaranteed by the United States, or of this state, or  
18 of a city, county, village, school district, or instrumentality of  
19 this state, or guaranteed by this state, to an aggregate amount,  
20 based upon principal amount or market value, whichever is lower, of  
21 not less than the amount of the required corporate surety bond or  
22 portion thereof. The securities shall be deposited and held to  
23 secure the same obligations as would the surety bond. The  
24 depositor shall have the right, with the approval of the director,  
25 to substitute other securities for those deposited, and shall be  
26 required to do so on written order of the director made for good  
27 cause shown. So long as the licensee so depositing shall continue  
28 solvent, and is not in violation of the Nebraska Sale of Checks and



1 Funds Transmission Act, such licensee shall be permitted to receive  
2 the interest or dividends on such deposit. The director shall  
3 provide for custody of such securities by a qualified trust company  
4 or bank located in the State of Nebraska or by any federal reserve  
5 bank. The compensation, if any, of the custodian for acting as  
6 such under the provisions of this section shall be paid by the  
7 depositing licensee. All such securities shall be subject to sale  
8 and transfer and to the disposal of the proceeds by the director  
9 only on the order of a court of competent jurisdiction.

10 Sec. 11. Section 8-1008, Revised Statutes Supplement,  
11 2002, is amended to read:

12 8-1008. (1) After a license has been granted, the  
13 licensee shall maintain the bond or securities in the amount  
14 prescribed by section 8-1006, as follows:

15 ~~(1)~~ (a) Each licensee who does not have on file or  
16 deposit a bond or securities in the undiminished sum of ~~one~~ two  
17 hundred fifty thousand dollars, shall file semiannual reports with  
18 the director setting forth the locations at which the licensee  
19 sells checks in this state as of January 1 and July 1 in each year  
20 with the report for each such date being due on or before the  
21 fifteenth day thereafter. The licensee shall not be required to  
22 list on such reports those agents which are exempted by the  
23 provisions of section 8-1003. Within ten days following the filing  
24 of such reports, the principal sum of the bond or securities shall  
25 be increased to reflect any increase in the number of locations and  
26 may be decreased to reflect any decrease in the number of  
27 locations; and

28 ~~(2)~~ (b) If the director ~~shall find~~ finds at any time that

1 any bond required by the Nebraska Sale of Checks and Funds  
2 Transmission Act is insecure, insufficient, or exhausted, an  
3 additional bond to be approved by the director shall be filed by  
4 the licensee within ten days after written demand therefor by the  
5 director.

6 (2) Until July 1, 2005, a licensee licensed prior to the  
7 operative date of this section may maintain the bond or securities  
8 amount such licensee was originally licensed under.

9 Sec. 12. Section 8-1009, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 8-1009. Each licensee shall, annually on or before July  
12 1 of each year, file a license renewal application and pay to the  
13 director ~~annually on or before July 1 of each year~~ a license fee of  
14 ~~one~~ two hundred fifty dollars.

15 Sec. 13. Section 8-1010, Revised Statutes Supplement,  
16 2002, is amended to read:

17 8-1010. Each licensee may conduct business at one or  
18 more locations within this state and through or by means of such  
19 employees, agents, or representatives as the licensee may designate  
20 and appoint from time to time. In addition to any reports which  
21 may be required by subdivision (1) of section 8-1008, each licensee  
22 shall notify the department annually on or before July 1 of each  
23 year of all such locations except for agents which are exempted  
24 under section 8-1003. No license under the Nebraska Sale of Checks  
25 and Funds Transmission Act shall be required of any employee,  
26 agent, or representative who is acting for or in behalf of a  
27 licensee in the sale of checks of which the licensee is the issuer.

28 Sec. 14. Section 8-1012.01, Revised Statutes Supplement,

1 2003, is amended to read:

2 8-1012.01. (1) The director may examine the books,  
3 accounts, and records of each licensee.

4 (2) The director may contract with other state or federal  
5 regulatory agencies to conduct examinations of licensees if the  
6 licensee's principal place of business is outside of the State of  
7 Nebraska.

8 (3) The director may enter into cooperative,  
9 coordinating, and information-sharing agreements with any other  
10 governmental agency that has similar supervision in this or any  
11 other state.

12 (4) The director may enter into joint examinations or  
13 joint enforcement actions with any other governmental agency that  
14 has similar supervision in this or any other state over any  
15 licensee.

16 (5) The director may, at any time, take such actions  
17 independently if he or she deems such actions to be necessary or  
18 appropriate to carry out his or her responsibilities under the  
19 Nebraska Sale of Checks and Funds Transmission Act or to ensure  
20 compliance with Nebraska law.

21 (6) The cost of any examination conducted under this  
22 section shall be paid by the licensee.

23 (7) The director may request information from a licensee  
24 regarding the conduct of its business or matters incidental to the  
25 business. A licensee receiving such a request for information has  
26 twenty-one calendar days from receipt of such request in which to  
27 submit a response. The director may assess a penalty up to one  
28 thousand dollars per day for each day a licensee fails to respond.

1           Sec. 15.   Section 8-1511, Revised Statutes Supplement,  
2   2002, is amended to read:

3           8-1511.   For purposes of sections 8-1511 to 8-1513,  
4   unless the context otherwise requires:

5           (1) Affiliated bank or thrift institution ~~shall mean~~  
6   means (a) if the bank or thrift institution is a subsidiary of a  
7   state bank, national banking association, or thrift institution,  
8   the parent bank or thrift institution as the case may be and (b) if  
9   the bank or thrift institution is a subsidiary of a bank or thrift  
10   institution holding company, the principal subsidiary of the  
11   holding company which is a bank or thrift institution as the case  
12   may be;

13          (2) Association of banks or thrift institutions ~~shall~~  
14   ~~mean~~ means two or more banks or thrift institutions formed for the  
15   purpose of acquiring and holding all or substantially all of the  
16   voting stock of one ~~newly established~~ credit card bank pursuant to  
17   sections 8-1512 and 8-1513;

18          (3) Bank or banking corporation ~~shall mean~~ means the  
19   principal office of (a) any national bank doing business in this  
20   state, (b) any corporation which is chartered to conduct a bank in  
21   this state as provided in the Nebraska Banking Act, (c) any  
22   association of banks, (d) a bank holding company as defined in the  
23   Nebraska Bank Holding Company Act of 1995, or (e) an out-of-state  
24   bank holding company as defined in the Nebraska Bank Holding  
25   Company Act of 1995;

26          (4) Qualifying association ~~shall mean~~ means an  
27   association, corporation, partnership, limited liability company,  
28   or other entity which at all times maintains an office in this

1 state at which it employs at least fifty persons in this state and  
2 which pursuant to contract or otherwise offers at least the  
3 following services to banks: (a) The distribution, as agent for a  
4 bank, of credit cards or transaction cards; (b) the preparation of  
5 periodic statements of amounts due under such account; (c) the  
6 receipt from credit card or transaction card holders of amounts  
7 paid on or with respect to such accounts; and (d) the maintenance  
8 of financial records reflecting the status of such accounts from  
9 time to time;

10 (5) Thrift institution ~~shall mean~~ means (a) any  
11 corporation which is chartered as a building and loan association,  
12 savings and loan association, savings bank, or credit union under  
13 the laws of the United States, any other state, or the District of  
14 Columbia and whose operations are principally conducted outside of  
15 Nebraska, (b) any holding company of a thrift institution with  
16 subsidiaries whose operations are principally conducted outside of  
17 Nebraska, or (c) any association of thrift institutions; and

18 (6) Transaction card ~~shall mean~~ means a device or means  
19 used to access a prearranged revolving credit plan account.

20 Sec. 16. Section 8-1512, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 8-1512. (1) Notwithstanding any other provisions of law  
23 and subject to the provisions of this section and to the approval  
24 of the Director of Banking and Finance, any bank or thrift  
25 institution, ~~as defined in section 8-1511,~~ may acquire and hold all  
26 or substantially all of the voting stock of one newly established  
27 credit card bank located in this state when and so long as the  
28 ~~following~~ credit card bank meets the conditions set forth in

1 section 18 of this act.

2 (2) Sections 8-1511 to 8-1513 and sections 18 to 20 of  
3 this act shall not be construed so as to limit the acquisition or  
4 ownership of a credit card bank to banks or thrift institutions.  
5 are satisfied.

6 ~~(1) The bank whose stock is to be acquired is a newly~~  
7 ~~established bank that shall be limited to one banking office and~~  
8 ~~the bank may not acquire, establish, share, or maintain any~~  
9 ~~additional banking office or remote service unit in this state~~  
10 ~~whether by merger, consolidation, or otherwise, and the services of~~  
11 ~~the bank shall be limited to the solicitation, processing, and~~  
12 ~~matters relating to the making of loans instituted by credit card~~  
13 ~~or transaction card,~~

14 ~~(2) The bank whose stock is to be acquired is limited to~~  
15 ~~accepting deposits only from affiliated banks or thrift~~  
16 ~~institutions not domiciled in the State of Nebraska and has or will~~  
17 ~~have on the date of commencement of banking business in this state~~  
18 ~~a minimum capital stock and paid-in surplus of two million five~~  
19 ~~hundred thousand dollars,~~

20 ~~(3) The bank whose stock is to be acquired (a) employs on~~  
21 ~~the date of commencement of its banking business in this state or~~  
22 ~~will employ within one year of such date not less than fifty~~  
23 ~~persons in this state in its business or (b) has contracted with a~~  
24 ~~qualifying association to provide for the processing of its credit~~  
25 ~~card or transaction card operations, and~~

26 ~~(4) The bank whose stock is to be acquired is operating~~  
27 ~~in a manner and at a location that is not likely to attract~~  
28 ~~customers from the general public in this state to the substantial~~

1 detriment of existing banking institutions located in this state,  
2 except that the bank to be acquired may be operated in a manner  
3 likely to attract and retain customers with whom such bank, the  
4 acquiring bank or thrift institution, or the subsidiary of the  
5 acquiring bank or thrift institution has or has had business  
6 relations.

7           Sec. 17.     Section 8-1513, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           8-1513. (1) Any bank or thrift institution, as defined  
10 in section ~~8-1511~~, proposing any acquisition pursuant to section  
11 8-1512 shall file an application with the ~~Director~~ Department of  
12 Banking and Finance for approval to make the acquisition. The  
13 application shall contain such information as the ~~director~~ Director  
14 of Banking and Finance may by regulation require and shall  
15 specifically acknowledge the applicant's agreement to be bound by  
16 the conditions set forth in section ~~8-1512~~ 18 of this act. In  
17 addition, the application shall designate a resident of this state  
18 as the applicant's agent for the service of any paper, notice, or  
19 legal process upon the applicant in connection with the matters  
20 arising out of the laws of this state and shall be accompanied by a  
21 the filing fee in the amount of five thousand dollars for the use  
22 of this state provided in section 8-602.

23           (2) In determining whether to approve an acquisition by a  
24 bank or thrift institution, as defined in section ~~8-1511~~, of any  
25 voting stock of a ~~newly established~~ credit card bank located in  
26 this state, the director shall consider: (a) The financial and  
27 managerial resources of such bank or thrift institution; (b)  
28 whether the acquisition may result in undue concentration of

1 resources or substantial lessening of competition; and (c) whether  
2 the convenience and benefit to the public outweigh any adverse  
3 competitive effects.

4 (3) Any approval granted to a bank or thrift institution,  
5 ~~as defined in section 8-1511,~~ by the director is subject to such  
6 reasonable conditions as the director deems necessary and to the  
7 director's continuing authority to ascertain such financial  
8 institution's compliance with the provisions of the laws of this  
9 state and the conditions of approval.

10 (4) Whenever the director determines after notice and  
11 hearing that any bank or thrift institution, ~~as defined in section~~  
12 ~~8-1511,~~ is not in compliance with the laws of this state or the  
13 conditions of approval, the director shall order such bank or  
14 thrift institution to divest itself of all stock of the credit card  
15 bank acquired pursuant to ~~sections~~ section 8-1512 and 8-1513, and  
16 such bank or thrift institution shall be liable for a penalty of  
17 ten thousand dollars per day from the date such divestiture is  
18 ordered until it is completed.

19 Sec. 18. A credit card bank may be formed under the  
20 Nebraska Banking Act if all of the following conditions are met:

21 (1) A credit card bank shall not accept demand deposits  
22 or deposits that the depositor may withdraw by check or similar  
23 means for payment to third parties;

24 (2) A credit card bank may not accept any savings or time  
25 deposits of less than one hundred thousand dollars, except that  
26 savings or time deposits of any amount may be accepted from  
27 affiliated financial institutions;

28 (3) The services of a credit card bank shall be limited



1 to the solicitation, processing, and making of loans instituted by  
2 credit card or transaction card and matters relating or incidental  
3 thereto;

4 (4) A credit card bank shall not make commercial loans;

5 (5) A credit card bank shall, on the date of commencement  
6 of banking business in this state, have a minimum capital stock and  
7 paid-in surplus of two million five hundred thousand dollars;

8 (6) A credit card bank shall (a) employ on the date of  
9 commencement of its banking business in this state or within one  
10 year after such date not less than fifty persons in this state in  
11 its business or (b) contract with a qualifying association, as  
12 defined in subdivision (4) of section 8-1511, to provide for the  
13 processing of its credit card or transaction card operations;

14 (7) A credit card bank shall maintain only one office  
15 that accepts deposits;

16 (8) A credit card bank may maintain one or more  
17 processing centers in this state; and

18 (9) A credit card bank shall operate in a manner and at a  
19 location that is not likely to attract customers from the general  
20 public in this state to the substantial detriment of existing  
21 financial institutions, as defined in section 8-101, located in  
22 this state.

23 Sec. 19. The Department of Banking and Finance may grant  
24 a charter to transact the business of a credit card bank if the  
25 Director of Banking and Finance is satisfied that the applicant has  
26 met the conditions set forth in section 18 of this act and the  
27 Nebraska Banking Act as to the formation of a new bank.

28 Sec. 20. A credit card bank shall be subject to Chapter

1 8, articles 1, 5, 6, 7, 8, 9, 13, 14, 15, 16, 18, 19, 20, and 21,  
2 unless otherwise limited or excluded or the context otherwise  
3 requires.

4           Sec. 21. Section 21-17,115, Revised Statutes Supplement,  
5 2003, is amended to read:

6           21-17,115. Notwithstanding any of the other provisions  
7 of the Credit Union Act or any other Nebraska statute, any credit  
8 union incorporated under the laws of the State of Nebraska and  
9 organized under the provisions of the act shall have all the  
10 rights, powers, privileges, benefits, and immunities which may be  
11 exercised as of ~~March 4, 2003~~ the operative date of this section,  
12 by a federal credit union doing business in Nebraska on the  
13 condition that such rights, powers, privileges, benefits, and  
14 immunities shall not relieve such credit union from payment of  
15 state taxes assessed under any applicable laws of this state.

16           Sec. 22. Section 45-101.04, Revised Statutes Supplement,  
17 2003, is amended to read:

18           45-101.04. The limitation on the rate of interest  
19 provided in section 45-101.03 shall not apply to:

20           (1) Other rates of interest authorized for loans made by  
21 any licensee or permittee operating under a license or permit duly  
22 issued by the Department of Banking and Finance pursuant to the  
23 Credit Union Act, the Nebraska Installment Loan Act, subsection (4)  
24 of section 8-319, or sections 8-815 to 8-829;

25           (2) Loans made to any corporation, partnership, limited  
26 liability company, or trust;

27           (3) The guarantor or surety of any loan to a corporation,  
28 partnership, limited liability company, or trust;

1           (4) Loans made when the aggregate principal amount of the  
2 indebtedness is twenty-five thousand dollars or more of the  
3 borrower to any one financial institution, licensee, or permittee;

4           (5) Loans insured, guaranteed, sponsored, or participated  
5 in, either in whole or part, by any agency, department, or program  
6 of the United States or state government;

7           (6) Loans or advances of money, repayable on demand,  
8 which are made solely upon securities, as defined in subdivision  
9 (15) of section 8-1101, pledged as collateral for such repayment  
10 and in which such loans or advances are used by the borrower only  
11 for the purchase of securities as so defined. It shall be lawful  
12 to contract for and receive any rate of interest on such  
13 transaction as the parties thereto may expressly agree;

14           (7) Interest charges made on open credit accounts by a  
15 person who sells goods or services on credit when the interest  
16 charges do not exceed one and one-third percent per month for any  
17 charges which remain unpaid for more than thirty days following  
18 rendition of the statement of account;

19           (8) A minimum charge of ten dollars per loan which may be  
20 charged by the lender in lieu of all interest charges;

21           (9) Loans described in subsection (4) of section 8-319  
22 made by a state or federal savings and loan association at a rate  
23 not to exceed nineteen percent per annum;

24           (10) Loans made primarily for business or agricultural  
25 purposes or secured by real ~~estate~~ property when such loans are  
26 made (a) by a licensee, registrant, or permittee operating under a  
27 license, registration, or permit duly issued by the Department of  
28 Banking and Finance except for licensees operating under the

1 Nebraska Installment Loan Act, (b) by any financial institution  
2 insured by the Federal Deposit Insurance Corporation or the  
3 National Credit Union Administration, or (c) by any insurance  
4 company organized under the laws of this state and subject to  
5 regulation by the Department of Insurance;

6 (11) Loans secured solely by real ~~estate~~ property when  
7 such loans are (a) made by licensees operating under the Nebraska  
8 Installment Loan Act and (b) made to finance or refinance the  
9 purchase of the property or construction on or improvements to the  
10 property, if the Department of Banking and Finance has the  
11 authority to examine such loans for compliance with sections  
12 45-101.02 and 45-101.03. A licensee making a loan pursuant to this  
13 subdivision may obtain an interest in any fixtures attached to such  
14 real ~~estate~~ property and any insurance proceeds payable in  
15 connection with such real ~~estate~~ property or the loan;

16 (12) Loans secured by a reverse mortgage pursuant to  
17 section 45-1068;

18 (13) Interest charges made on any goods or services sold  
19 under an installment contract pursuant to the Nebraska Installment  
20 Sales Act. Subject to section 45-338, it shall be lawful to  
21 contract for and receive any rate of interest on such contract as  
22 the parties may expressly agree to in writing; or

23 (14) Fees which may be charged by a licensee for services  
24 pursuant to the Delayed Deposit Services Licensing Act.

25 Sec. 23. Section 45-205, Revised Statutes Supplement,  
26 2002, is amended to read:

27 45-205. Every revolving charge agreement shall be in  
28 writing and shall be signed by the buyer. Such requirements may be

1 met when disclosure of the revolving charge credit terms has been  
2 made to the buyer in conformity with the requirements of the  
3 federal Consumer Credit Protection Act before the first extension  
4 of credit to the buyer under the revolving charge agreement, and  
5 the buyer has signed an application for the revolving charge credit  
6 or the buyer signs a sales slip in connection with such extension  
7 of credit if the application has been solicited by telephone with  
8 disclosure of the periodic rate of the time-price differential by  
9 the seller at the time of the telephone solicitation. A copy of  
10 any such agreement ~~executed on or after May 24, 1965,~~ shall be  
11 delivered or mailed to the buyer by the seller prior to the date on  
12 which the first payment is due thereunder. All agreements executed  
13 on or after such date shall state the amount or rate of the  
14 time-price differential to be charged and paid pursuant thereto.  
15 If a seller proffers a revolving charge agreement as part of a  
16 transaction which delays or cancels, or promises to delay or  
17 cancel, the payment of the time-price differential on the revolving  
18 charge agreement, if the buyer pays the basic time price, cash  
19 price, or cash sale price within a certain period of time, the  
20 seller shall, in clear and conspicuous writing, either within the  
21 revolving charge agreement or in a separate document or, in lieu  
22 thereof, within a statement sent by the seller to the buyer no  
23 later than thirty-five days after the buyer's purchase of goods or  
24 services, or in the case of special order goods which are not  
25 available for immediate delivery no later than thirty-five days  
26 after the buyer's receipt of goods, inform the buyer of the exact  
27 date by which the buyer must pay the basic time price, cash price,  
28 or cash sale price in order to delay or cancel the payment of the

1 time-price differential. The seller or any subsequent purchaser of  
2 the revolving charge agreement shall not be allowed to change such  
3 date. In addition to the sale price of the goods or services and  
4 the time-price differential provided for in sections 45-204 to  
5 45-208, no further or other amount whatsoever shall be directly or  
6 indirectly charged, contracted for, or received, except that a  
7 seller may (1) contract for and receive fees for participation in a  
8 card system which offers services other than revolving charges and  
9 (2) impose delinquency charges on each payment in default for a  
10 period of not less than ten days not to exceed five percent of the  
11 amount due or five dollars, whichever is greater. A delinquency  
12 charge under this section may be collected only once on each  
13 payment due, however long it remains in default. A delinquency  
14 charge may be collected at the time it accrues or at any time  
15 afterward.

16 Sec. 24. Section 45-206, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 45-206. (1) The seller under a revolving charge  
19 agreement shall promptly supply the buyer under such agreement with  
20 a statement as of the end of each monthly period, which need not be  
21 a calendar month, or other regular period agreed upon by the seller  
22 and the buyer, in which there is any unpaid balance thereunder,  
23 which shall recite the following: ~~(1)~~ (a) The unpaid balance under  
24 the revolving charge agreement at the beginning and end of the  
25 period; ~~(2)~~ (b) unless otherwise furnished by the seller to the  
26 buyer by sales slip, memorandum, or otherwise, a description or  
27 identification of the goods or services purchased, the cash price,  
28 and the date of each purchase; ~~(3)~~ (c) the payments made by the

1 buyer to the seller and any other credits to the buyer during the  
2 period; ~~(4)~~ (d) the amount of the time-price differential, if any;  
3 and ~~(5)~~ (e) a legend to the effect that the buyer may at any time  
4 pay the total balance or any portion thereof. The items need not  
5 be stated in the sequence or order set forth ~~above~~ in this  
6 subsection and additional items may be included to explain the  
7 computations made in determining the amount to be paid by the  
8 buyer. Compliance with the applicable disclosure requirements of  
9 the federal regulations which implement the federal Consumer Credit  
10 Protection Act shall be deemed compliance with this section.

11 (2) If the amount owed under a revolving charge agreement  
12 has been paid in full and has been inactive for at least  
13 twenty-four months, the seller shall mark the revolving charge  
14 agreement as closed or paid in full. The seller shall give written  
15 notice to the buyer of the closed or paid-in-full status of the  
16 revolving charge agreement within forty-five days after the seller  
17 has so marked the revolving charge agreement.

18 Sec. 25. Section 45-342, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 45-342. (1) Notwithstanding the provisions of any  
21 contract to the contrary, any buyer may prepay in full at any time  
22 before maturity the obligation of any contract.

23 (2) ~~For any contract entered into prior to October 1,~~  
24 ~~1981, the provisions of this subsection may be used or the~~  
25 ~~provisions of subsection (3) of this section may be used. If such~~  
26 ~~obligation is so prepaid, any unearned charges shall be refunded.~~  
27 ~~The amount of such refund shall represent at least as great a~~  
28 ~~proportion of the time-price differential as the sum of the monthly~~

1 time balances after the month prepayment is made bears to the sum  
2 of all the monthly time balances under the schedule of payments in  
3 the contract. When the amount of credit is less than one dollar no  
4 refund need be made.

5           (3) For any contract entered into on or after October 1,  
6 1981, the provisions of this subsection shall apply. If such  
7 obligation is prepaid in full by cash, a new loan, or otherwise  
8 after the first installment due date, the borrower shall receive a  
9 rebate of an amount which shall be not less than the amount  
10 obtained by applying to the unpaid principal balances as originally  
11 scheduled or, if deferred, as deferred, for the period following  
12 prepayment, according to the actuarial method, the rate of the  
13 time-price differential previously stated to the borrower. The  
14 licensee may round the rate of the time-price differential to the  
15 nearest one-half of one percent if such procedure is not  
16 consistently used to obtain a greater yield than would otherwise be  
17 permitted. Any default and deferment charges which are due and  
18 unpaid may be deducted from any rebate. No rebate shall be  
19 required for any partial prepayment. No rebate of less than one  
20 dollar need be made. Acceleration of the maturity of the contract  
21 shall not in itself require a rebate. If judgment is obtained  
22 before the final installment date, the contract balance shall be  
23 reduced by the rebate which would be required for prepayment in  
24 full as of the date judgment is obtained.

25           Sec. 26. Section 45-346, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           45-346. Within sixty days after May 24, 1965, each (1)  
28 Each place of business operating under a license under ~~sections~~



1 ~~45-334 to 45-353~~ the Nebraska Installment Sales Act shall have and  
2 properly display therein a nontransferable and nonassignable  
3 license. The same person may obtain additional licenses upon  
4 compliance with ~~sections 45-334 to 45-353~~ the act as to each  
5 license.

6 (2) Application for a license shall be on a form  
7 prescribed and furnished by the director and shall include audited  
8 financial statements. If the applicant is an individual or a sole  
9 proprietorship, the application shall include the applicant's  
10 social security number.

11 (3) A licensee may move ~~his or her~~ the place of business  
12 from one place to another within a county without obtaining a new  
13 license if ~~he or she has given~~ the licensee gives written notice  
14 thereof to the director at least ten days prior to such ~~removal~~  
15 move.

16 (4) The director shall, after an application has been  
17 filed for a license under ~~sections 45-334 to 45-353~~ the act,  
18 investigate the facts, and, if he or she ~~shall find~~ finds that the  
19 experience, character, and general fitness of the applicant, ~~and~~ of  
20 the members thereof if the applicant ~~be~~ is a corporation or  
21 association, and of the officers and directors thereof if the  
22 applicant ~~be~~ is a corporation, are such as to warrant belief that  
23 the business will be operated honestly, fairly, and efficiently  
24 within the purpose of ~~sections 45-334 to 45-353~~ the act, the  
25 director shall issue and deliver a license to the applicant to do  
26 business as a sales finance company in accordance with the license  
27 and the ~~provisions of sections 45-334 to 45-353~~ act. The director  
28 shall have the power to reject for cause any application for a

1 license.

2           (5) The director shall, within his or her discretion,  
3 make an examination and inspection concerning the propriety of the  
4 issuance of a license to any applicant. The cost of such  
5 examination and inspection shall be borne by the applicant.

6           (6) Submitted with each application shall be one hundred  
7 fifty dollars as a license fee. The license year shall begin on  
8 October 1 of each year. Each license shall remain in force until  
9 surrendered.

10           (7) If a change of control of a licensee is proposed, a  
11 new application for a license shall be submitted to the department.  
12 Control in the case of a corporation means (a) direct or indirect  
13 ownership of or the right to control twenty-five percent or more of  
14 the voting shares of the corporation or (b) the ability of a person  
15 or group acting in concert to elect a majority of the directors or  
16 otherwise effect a change in policy. Control in the case of any  
17 other entity means any change in the principals of the  
18 organization, whether active or passive.

19           Sec. 27. Section 45-351, Revised Statutes Supplement,  
20 2002, is amended to read:

21           45-351. (1) The Department of Banking and Finance shall  
22 be charged with the duty of inspecting the business, records, and  
23 accounts of all persons who engage in the business of a sales  
24 finance company subject to the Nebraska Installment Sales Act. The  
25 director shall have the power to appoint examiners who shall, under  
26 his or her direction, investigate the installment contracts and  
27 business and examine the books and records of licensees when the  
28 director shall so determine. Such examinations shall not be

1 conducted more often than annually except as provided in subsection  
2 (2) of this section.

3 (2) The director or his or her duly authorized  
4 representative shall have the power to make such investigations as  
5 he or she shall deem necessary, and, to the extent necessary for  
6 this purpose, he or she may examine such licensee or any other  
7 person and shall have the power to compel the production of all  
8 relevant books, records, accounts, and documents.

9 (3) The expenses of the director incurred in the  
10 examination of the books and records of licensees, including the  
11 expenses of travel incurred in the examination of books and records  
12 of licensees located outside Nebraska, shall be charged to the  
13 licensees so examined by the director as soon as reasonably  
14 possible. Each licensee shall be billed by the director for the  
15 amount so charged to such licensee. If such charge is not paid  
16 within thirty days after the mailing of such bill, the license of  
17 such licensee may be suspended or revoked. The director may charge  
18 the costs of an investigation of a nonlicensed person to such  
19 person, and such costs shall be paid within thirty days after  
20 receipt of billing.

21 (4) Upon receipt by a licensee of a notice of  
22 investigation or inquiry request for information from the  
23 department, the licensee shall respond within ~~thirty~~ twenty-one  
24 calendar days. Each day a licensee fails to respond as required by  
25 this subsection shall constitute a separate violation.

26 (5) If the director finds, after notice and opportunity  
27 for hearing in accordance with the Administrative Procedure Act,  
28 that any person has willfully and intentionally violated any

1 provision of the Nebraska Installment Sales Act, any rule or  
2 regulation adopted and promulgated under the act, or any order  
3 issued by the director under the act, the director may order such  
4 person to pay (a) an administrative fine of not more than one  
5 thousand dollars for each separate violation and (b) the costs of  
6 investigation. All fines collected by the department pursuant to  
7 this subsection shall be remitted to the State Treasurer for credit  
8 to the permanent school fund.

9 (6) If a person fails to pay an administrative fine and  
10 the costs of investigation ordered pursuant to subsection (5) of  
11 this section, a lien in the amount of such fine and costs may be  
12 imposed upon all assets and property of such person in this state  
13 and may be recovered in a civil action by the director. The lien  
14 shall attach to the real property of such person when notice of the  
15 lien is filed and indexed against the real property in the office  
16 of the register of deeds in the county where the real property is  
17 located. The lien shall attach to any other property of such  
18 person when notice of the lien is filed against the property in the  
19 manner prescribed by law. Failure of the person to pay such fine  
20 and costs shall constitute a separate violation of the Nebraska  
21 Installment Sales Act.

22 Sec. 28. Section 45-921, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 45-921. (1) The director may examine or investigate  
25 complaints about or reports of alleged violations of the Delayed  
26 Deposit Services Licensing Act or any rule, regulation, or order of  
27 the director thereunder. The director may order the actual cost of  
28 such examination or investigation to be paid by the person who is

1 the subject of the examination or investigation, whether the  
2 alleged violator is licensed or not.

3 (2) The director may publish information concerning any  
4 violation of the act or any rule, regulation, or order of the  
5 director under the act.

6 (3) For purposes of any investigation, examination, or  
7 proceeding under the act, the director may administer oaths and  
8 affirmations, subpoena witnesses, compel their attendance, take  
9 evidence, and require the production of any books, papers,  
10 correspondence, memoranda, agreements, or other documents or  
11 records which the director deems relevant or material to the  
12 examination, investigation, or proceeding.

13 (4) In the case of contumacy by or refusal to obey a  
14 subpoena issued to any person, the district court of Lancaster  
15 County, upon application by the director, may issue an order  
16 requiring such person to appear before the director and to produce  
17 documentary evidence if so ordered to give evidence on the matter  
18 under investigation or in question. Failure to obey the order of  
19 the court may be punished by the court as contempt.

20 (5) Upon receipt by a licensee of a notice of  
21 investigation or inquiry request for information from the  
22 department, the licensee shall respond within ~~thirty~~ twenty-one  
23 calendar days. Each day a licensee fails to respond as required by  
24 this subsection shall constitute a separate violation.

25 (6) If the director finds, after notice and opportunity  
26 for hearing in accordance with the Administrative Procedure Act,  
27 that any person has violated subsection (5) of this section, the  
28 director may order such person to pay (a) an administrative fine of

1 not more than one thousand dollars for each separate violation and  
2 (b) the costs of investigation. All fines collected by the  
3 department pursuant to this subsection shall be remitted to the  
4 State Treasurer for credit to the permanent school fund.

5 (7) If a person fails to pay an administrative fine and  
6 the costs of investigation ordered pursuant to subsection (6) of  
7 this section, a lien in the amount of such fine and costs may be  
8 imposed upon all assets and property of such person in this state  
9 and may be recovered in a civil action by the director. The lien  
10 shall attach to the real property of such person when notice of the  
11 lien is filed and indexed against the real property in the office  
12 of the register of deeds in the county where the real property is  
13 located. The lien shall attach to any other property of such  
14 person when notice of the lien is filed against the property in the  
15 manner prescribed by law. Failure of the person to pay such fine  
16 and costs shall constitute a separate violation of the Delayed  
17 Deposit Services Licensing Act.

18 Sec. 29. Section 45-1017, Revised Statutes Supplement,  
19 2002, is amended to read:

20 45-1017. (1) The department shall inspect the business,  
21 records, and accounts of all persons that lend money subject to the  
22 Nebraska Installment Loan Act. The department may examine or  
23 investigate complaints about or reports of alleged violations by a  
24 licensee made to the department. The department may inspect and  
25 investigate the business, records, and accounts of all persons in  
26 the public business of lending money contrary to the act and who do  
27 not have a license under the act. The director may appoint  
28 examiners who shall, under his or her direction, investigate the

1 loans and business and examine the books and records of licensees  
2 annually and more often as determined by the director. The  
3 expenses incurred by the department in examining the books and  
4 records of licensees and in administering the act during each  
5 calendar year shall be charged annually to each licensee by the  
6 department as soon as reasonably possible after the examination.  
7 Such expenses shall be charged in proportion to the number of days  
8 required to examine and supervise the books and records of the  
9 respective licensees.

10 (2) Upon receipt by a licensee of a notice of  
11 investigation or inquiry request for information from the  
12 department, the licensee shall respond within ~~thirty~~ twenty-one  
13 calendar days. Each day a licensee fails to respond as required by  
14 this subsection constitutes a separate violation.

15 (3) If the director finds, after notice and opportunity  
16 for hearing in accordance with the Administrative Procedure Act,  
17 that any person has willfully and intentionally violated any  
18 provision of the Nebraska Installment Loan Act, any rule or  
19 regulation adopted and promulgated under the act, or any order  
20 issued under the act, the director may order such person to pay (a)  
21 an administrative fine of not more than one thousand dollars for  
22 each separate violation and (b) the costs of investigation. All  
23 fines collected by the department pursuant to this subsection shall  
24 be remitted to the State Treasurer for credit to the permanent  
25 school fund.

26 (4) If a person fails to pay an administrative fine and  
27 the costs of investigation ordered pursuant to subsection (3) of  
28 this section, a lien in the amount of such fine and costs may be

1 imposed upon all assets and property of such person in this state  
2 and may be recovered in a civil action by the director. The lien  
3 shall attach to the real property of such person when notice of the  
4 lien is filed and indexed against the real property in the office  
5 of the register of deeds in the county where the real property is  
6 located. The lien shall attach to any other property of such  
7 person when notice of the lien is filed against the property in the  
8 manner prescribed by law. Failure of the person to pay such fine  
9 and costs constitutes a separate violation of the act.

10           Sec. 30. Section 45-1018, Revised Statutes Supplement,  
11 2003, is amended to read:

12           45-1018. A licensee shall on or before ~~February 15~~ March  
13 1 of each year file with the department a report of the licensee's  
14 earnings and operations for the preceding calendar year, and its  
15 assets at the end of the year, and giving such other relevant  
16 information as the department may reasonably require. The report  
17 shall be made under oath and shall be in the form and manner  
18 prescribed by the department.

19           Sec. 31. Section 45-1024, Revised Statutes Supplement,  
20 2003, is amended to read:

21           45-1024. (1) Except as provided in section 45-1025 and  
22 subsection (6) of this section, every licensee may make loans and  
23 may contract for and receive on such loans charges at a rate not  
24 exceeding twenty-four percent per annum on that part of the unpaid  
25 principal balance on any loan not in excess of one thousand  
26 dollars, and twenty-one percent per annum on any remainder of such  
27 unpaid principal balance. Charges on loans made under the Nebraska  
28 Installment Loan Act shall not be paid, deducted, or received in



1 advance. The contracting for, charging of, or receiving of charges  
2 as provided for in subsection (2) of this section shall not be  
3 deemed to be the payment, deduction, or receipt of such charges in  
4 advance.

5           (2) When the loan contract requires repayment in  
6 substantially equal and consecutive monthly installments of  
7 principal and charges combined, the licensee may, at the time the  
8 loan is made, precompute the charges at the agreed rate on  
9 scheduled unpaid principal balances according to the terms of the  
10 contract and add such charges to the principal of the loan. Every  
11 payment may be applied to the combined total of principal and  
12 precomputed charges until the contract is fully paid. All payments  
13 made on account of any loan except for default and deferment  
14 charges shall be deemed to be applied to the unpaid installments in  
15 the order in which they are due. The portion of the precomputed  
16 charges applicable to any particular month of the contract, as  
17 originally scheduled or following a deferment, shall be that  
18 proportion of such precomputed charges, excluding any adjustment  
19 made for a first installment period of more than one month and any  
20 adjustment made for deferment, which the balance of the contract  
21 scheduled to be outstanding during such month bears to the sum of  
22 all monthly balances originally scheduled to be outstanding by the  
23 contract. This section shall not limit or restrict the manner of  
24 calculating charges, whether by way of add-on, single annual rate,  
25 or otherwise, if the rate of charges does not exceed that permitted  
26 by this section. Charges may be contracted for and earned at a  
27 single annual rate, except that the total charges from such rate  
28 shall not be greater than the total charges from the several rates

1 otherwise applicable to the different portions of the unpaid  
2 balance according to subsection (1) of this section. All loan  
3 contracts made pursuant to this subsection are subject to the  
4 following adjustments:

5 (a) Notwithstanding the requirement for substantially  
6 equal and consecutive monthly installments, the first installment  
7 period may not exceed one month by ~~as much as fifteen days and the~~  
8 more than twenty-one days and may not fall short of one month by  
9 more than eleven days. The charges for each day exceeding one  
10 month shall be one-thirtieth of the charges which would be  
11 applicable to a first installment period of one month. The charge  
12 for extra days in the first installment period may be added to the  
13 first installment and such charges for such extra days shall be  
14 excluded in computing any rebate;

15 (b) If prepayment in full by cash, a new loan, or  
16 otherwise occurs before the first installment due date, the charges  
17 shall be recomputed at the rate of charges contracted for in  
18 accordance with subsection (1) or (2) of this section upon the  
19 actual unpaid principal balances of the loan for the actual time  
20 outstanding by applying the payment, or payments, first to charges  
21 at the agreed rate and the remainder to the principal. The amount  
22 of charges so computed shall be retained in lieu of all precomputed  
23 charges;

24 (c) If a contract is prepaid in full by cash, a new loan,  
25 or otherwise after the first installment due date, the borrower  
26 shall receive a rebate of an amount which is not less than the  
27 amount obtained by applying to the unpaid principal balances as  
28 originally scheduled or, if deferred, as deferred, for the period

1 following prepayment, according to the actuarial method, the rate  
2 of charge contracted for in accordance with subsection (1) or (2)  
3 of this section. The licensee may round the rate of charge to the  
4 nearest one-half of one percent if such procedure is not  
5 consistently used to obtain a greater yield than would otherwise be  
6 permitted. Any default and deferment charges which are due and  
7 unpaid may be deducted from any rebate. No rebate shall be  
8 required for any partial prepayment. No rebate of less than one  
9 dollar need be made. Acceleration of the maturity of the contract  
10 shall not in itself require a rebate. If judgment is obtained  
11 before the final installment date, the contract balance shall be  
12 reduced by the rebate which would be required for prepayment in  
13 full as of the date judgment is obtained;

14 (d) If any installment on a precomputed or interest  
15 bearing loan is unpaid in full for ten or more consecutive days,  
16 Sundays and holidays included, after it is due, the licensee may  
17 charge and collect a default charge not exceeding an amount equal  
18 to five percent of such installment. If any installment payment is  
19 made by a check, draft, or similar signed order which is not  
20 honored because of insufficient funds, no account, or any other  
21 reason except an error of a third party to the loan contract, the  
22 licensee may charge and collect a fifteen-dollar bad check charge.  
23 Such default or bad check charges may be collected when due or at  
24 any time thereafter;

25 (e) If, as of an installment due date, the payment date  
26 of all wholly unpaid installments is deferred one or more full  
27 months and the maturity of the contract is extended for a  
28 corresponding period, the licensee may charge and collect a

1 deferment charge not exceeding the charge applicable to the first  
2 of the installments deferred, multiplied by the number of months in  
3 the deferment period. The deferment period is that period during  
4 which no payment is made or required by reason of such deferment.  
5 The deferment charge may be collected at the time of deferment or  
6 at any time thereafter. The portion of the precomputed charges  
7 applicable to each deferred balance and installment period  
8 following the deferment period shall remain the same as that  
9 applicable to such balance and periods under the original loan  
10 contract. No installment on which a default charge has been  
11 collected, or on account of which any partial payment has been  
12 made, shall be deferred or included in the computation of the  
13 deferment charge unless such default charge or partial payment is  
14 refunded to the borrower or credited to the deferment charge. Any  
15 payment received at the time of deferment may be applied first to  
16 the deferment charge and the remainder, if any, applied to the  
17 unpaid balance of the contract, except that if such payment is  
18 sufficient to pay, in addition to the appropriate deferment charge,  
19 any installment which is in default and the applicable default  
20 charge, it shall be first so applied and any such installment shall  
21 not be deferred or subject to the deferment charge. If a loan is  
22 prepaid in full during the deferment period, the borrower shall  
23 receive, in addition to the required rebate, a rebate of that  
24 portion of the deferment charge applicable to any unexpired full  
25 month or months of such deferment period; and

26 (f) If two or more full installments are in default for  
27 one full month or more at any installment date and if the contract  
28 so provides, the licensee may reduce the contract balance by the

1 rebate which would be required for prepayment in full as of such  
2 installment date and the amount remaining unpaid shall be deemed to  
3 be the unpaid principal balance and thereafter in lieu of charging,  
4 collecting, receiving, and applying charges as provided in this  
5 subsection, charges may be charged, collected, received, and  
6 applied at the agreed rate as otherwise provided by this section  
7 until the loan is fully paid.

8           (3) The charges, as referred to in subsection (1) of this  
9 section, shall not be compounded. The charging, collecting, and  
10 receiving of charges as provided in subsection (2) of this section  
11 shall not be deemed compounding. If part or all of the  
12 consideration for a loan contract is the unpaid principal balance  
13 of a prior loan, then the principal amount payable under such loan  
14 contract may include any unpaid charges on the prior loan which  
15 have accrued within sixty days before the making of such loan  
16 contract and may include the balance remaining after giving the  
17 rebate required by subsection (2) of this section. Except as  
18 provided in subsection (2) of this section, charges shall (a) be  
19 computed and paid only as a percentage per month of the unpaid  
20 principal balance or portions thereof and (b) be computed on the  
21 basis of the number of days actually elapsed. For purposes of  
22 computing charges, whether at the maximum rate or less, a month  
23 shall be that period of time from any date in a month to the  
24 corresponding date in the next month but if there is no such  
25 corresponding date then to the last day of the next month, and a  
26 day shall be considered one-thirtieth of a month when computation  
27 is made for a fraction of a month.

28           (4) Except as provided in subsections (5) and (6) of this

1 section, in addition to that provided for under the Nebraska  
2 Installment Loan Act, no further or other amount whatsoever shall  
3 be directly or indirectly charged, contracted for, or received. If  
4 any amount, in excess of the charges permitted, is charged,  
5 contracted for, or received, the loan contract shall not on that  
6 account be void, but the licensee shall have no right to collect or  
7 receive any interest or other charges whatsoever. If such interest  
8 or other charges have been collected or contracted for, the  
9 licensee shall refund to the borrower all interest and other  
10 charges collected and shall not collect any interest or other  
11 charges contracted for and thereafter due on the loan involved, as  
12 liquidated damages, and the licensee or its assignee, if found  
13 liable, shall pay the costs of any action relating thereto,  
14 including reasonable attorney's fees. No licensee shall be found  
15 liable under this subsection if the licensee shows by a  
16 preponderance of the evidence that the violation was not  
17 intentional and resulted from a bona fide error notwithstanding the  
18 maintenance of procedures reasonably adopted to avoid any such  
19 error.

20 (5) A borrower may be required to pay all reasonable  
21 expenses incurred in connection with the making, closing,  
22 disbursing, extending, readjusting, or renewing of loans. Such  
23 expenses may include abstracting, recording, releasing, and  
24 registration fees, premiums paid for nonfiling insurance, premiums  
25 paid on insurance policies covering tangible personal property  
26 securing the loan, title examinations, credit reports, survey, and  
27 taxes or charges imposed upon or in connection with the making and  
28 recording or releasing of any mortgage. Except as provided in

1 subsection (6) of this section, a borrower may also be required to  
2 pay a nonrefundable loan origination fee not to exceed the lesser  
3 of five hundred dollars or an amount equal to seven percent of that  
4 part of the original principal balance of any loan not in excess of  
5 two thousand dollars and five percent on that part of the original  
6 principal balance in excess of two thousand dollars. Such  
7 reasonable initial charges may be collected from the borrower or  
8 included in the principal balance of the loan at the time the loan  
9 is made and shall not be considered interest or a charge for the  
10 use of the money loaned.

11 (6) (a) Loans secured solely by real ~~estate~~ property that  
12 are not ~~mortgage loans~~, as made pursuant to subdivision (11) of  
13 section 45-101.04 on real property, as that term is defined in  
14 section 45-702, shall not be subject to the limitations on the rate  
15 of interest provided in subsection (1) of this section or the  
16 limitations on the nonrefundable loan origination fee under  
17 subsection (5) of this section if (i) the principal amount of the  
18 loan is seven thousand five hundred dollars or more and (ii) the  
19 sum of the principal amount of the loan and the balances of all  
20 other liens against the property do not exceed one hundred percent  
21 of the appraised value of the property.

22 (b) An origination fee on such loan shall be computed  
23 only on the principal amount of the loan reduced by any portion of  
24 the principal that consists of the amount required to pay off  
25 another loan made under this subsection by the same licensee.

26 (c) A prepayment penalty on such loan shall be permitted  
27 only if (i) the maximum amount of the penalty to be assessed is  
28 stated in writing at the time the loan is made, (ii) the loan is

1 prepaid in full within two years from the date of the loan, and  
2 (iii) the loan is prepaid with money other than the proceeds of  
3 another loan made by the same licensee. Such prepayment penalty  
4 shall not exceed six months interest on eighty percent of the  
5 original principal balance computed at the agreed rate of interest  
6 on the loan.

7 (d) A licensee making a loan pursuant to this subsection  
8 may obtain an interest in any fixtures attached to such real estate  
9 property and any insurance proceeds payable in connection with such  
10 real estate property or the loan.

11 (e) For purposes of this subsection, principal amount of  
12 the loan means the total sum owed by the borrower including, but  
13 not limited to, insurance premiums, loan origination fees, or any  
14 other amount that is financed, except that for purposes of  
15 subdivision (6)(b) of this section, loan origination fees shall not  
16 be included in calculating the principal amount of the loan.

17 Sec. 32. Section 45-1025, Revised Statutes Supplement,  
18 2003, is amended to read:

19 45-1025. (1) Licensees may charge, contract for, or  
20 receive any amount or rate of interest permitted by section  
21 45-101.03, 45-101.04, or 45-1024 upon any loan or upon any part or  
22 all of any aggregate indebtedness of the same person. Except as  
23 provided in subsection (2) of this section, the charging,  
24 contracting for, or receiving of a rate of interest permitted by  
25 section 45-101.04 does not exempt the licensee from compliance with  
26 the Nebraska Installment Loan Act.

27 (2)(a) Loans made by a licensee pursuant to subdivision  
28 (4) of section 45-101.04 are not subject to the Nebraska



1 Installment Loan Act if such loans are not ~~mortgage loans~~ made on  
2 real property, as that term is defined in section 45-702.

3 (b) Loans made by a licensee pursuant to subdivision (11)  
4 of section 45-101.04 ~~which are mortgage loans on real property~~, as  
5 that term is defined in section 45-702, are not subject to the  
6 Nebraska Installment Loan Act. A licensee making ~~mortgage~~ such  
7 ~~loans on real property, as that term is defined in section 45-702,~~  
8 shall comply with and be subject to the Mortgage Bankers  
9 Registration and Licensing Act with respect to such ~~mortgage~~ loans,  
10 except that the licensee shall not be required to obtain a license  
11 under the Mortgage Bankers Registration and Licensing Act.

12 (3) Except as provided in subdivision (2)(a) of section  
13 45-1024, no licensee shall enter into any loan contract under the  
14 Nebraska Installment Loan Act under which the borrower agrees to  
15 make any payment of principal more than thirty-six calendar months  
16 from the date of making such contract when the principal balance is  
17 not more than three thousand dollars. Every loan contract  
18 precomputed pursuant to subsection (2) of section 45-1024 shall  
19 provide for repayment of principal and charges in installments  
20 which shall be payable at approximately equal periodic intervals of  
21 time and so arranged that no installment is substantially greater  
22 in amount than any preceding installment. When necessary in order  
23 to facilitate payment in accordance with the borrower's principal  
24 source of income or when the loan contract is not precomputed  
25 pursuant to subsection (2) of section 45-1024, the payment schedule  
26 may reduce or omit installment payments. Any loan contract made in  
27 violation of this section, either knowingly or without the exercise  
28 of due care to prevent the violation, shall not on that account be

1 void, but the licensee has no right to collect or receive any  
2 interest or charges on such loan. If any interest or other charges  
3 have been collected or contracted for, the licensee shall refund to  
4 the borrower all interest and other charges collected and shall not  
5 collect thereafter any interest or other charges contracted for and  
6 thereafter due on the loan involved, as liquidated damages, and the  
7 licensee or its assignee, if found liable, shall pay the costs of  
8 any action relating thereto, including reasonable attorney's fees.  
9 No licensee shall be found liable under this subsection if the  
10 licensee shows by a preponderance of the evidence that the  
11 violation was not intentional and resulted from a bona fide error  
12 notwithstanding the maintenance of procedures reasonably adopted to  
13 avoid any such error.

14 Sec. 33. Section 45-1065, Revised Statutes Supplement,  
15 2002, is amended to read:

16 45-1065. A licensee may retain any security interest,  
17 including a mortgage on real ~~estate~~ property, until the  
18 preauthorized account is terminated.

19 Sec. 34. Sections 1, 2, 4, 6 to 20, 22 to 33, and 36 of  
20 this act become operative three calendar months after adjournment  
21 of this legislative session. The other sections of this act become  
22 operative on their effective date.

23 Sec. 35. Original sections 8-1,140, 8-355, and  
24 21-17,115, Revised Statutes Supplement, 2003, are repealed.

25 Sec. 36. Original sections 8-1009, 8-1512, 8-1513,  
26 45-206, 45-342, 45-346, and 45-921, Reissue Revised Statutes of  
27 Nebraska, sections 8-113, 8-208, 8-910, 8-1006, 8-1008, 8-1010,  
28 8-1511, 45-205, 45-351, 45-1017, and 45-1065, Revised Statutes

LB 999

LB 999

1 Supplement, 2002, and sections 8-157.01, 8-602, 8-1001, 8-1003,  
2 8-1012.01, 45-101.04, 45-1018, 45-1024, and 45-1025, Revised  
3 Statutes Supplement, 2003, are repealed.

4           Sec. 37. Since an emergency exists, this act takes  
5 effect when passed and approved according to law.